

SENATE BILL 3788

By Marrero B

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 11, Part 6, relative to self defense and the
use of force to defend a business.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-611, is amended by deleting subsections (a), (c) and (d) in their entirety and substituting instead the following:

(a) As used in this section, unless the context otherwise requires:

(1) "Business" means a commercial enterprise or establishment owned by a person as all or part of such person's livelihood, or is under the owner's control or who is an employee or agent of the owner with responsibility for protecting persons and property and shall include the interior and exterior premises of such business;

(2) "Curtilage" means the area surrounding a dwelling that is necessary, convenient and habitually used for family purposes and for those activities associated with the sanctity of a person's home;

(3) "Dwelling" means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, that has a roof over it, including a tent, and is designed for or capable of use by people;

(4) "Residence" means a dwelling in which a person resides, either temporarily or permanently, or is visiting as an invited guest, or any dwelling, building or other appurtenance within the curtilage of the residence; and

(5) "Vehicle" means any motorized vehicle that is self-propelled and designed for use on public highways to transport people or property.

(c) Any person using force intended or likely to cause death or serious bodily injury within a residence, business, dwelling or vehicle is presumed to have held a reasonable belief of imminent death or serious bodily injury to self, family, a member of the household or a person visiting as an invited guest, when that force is used against another person, who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence, business, dwelling or vehicle, and the person using defensive force knew or had reason to believe that an unlawful and forcible entry occurred.

(d) The presumption established in subsection (c) shall not apply, if:

(1) The person against whom the force is used has the right to be in or is a lawful resident of the dwelling, business, residence, or vehicle, such as an owner, lessee, or titleholder; provided, that the person is not prohibited from entering the dwelling, residence, or occupied vehicle by an order of protection, injunction for protection from domestic abuse, or a court order of no contact against that person;

(2) The person against whom the force is used is attempting to remove a person or persons who is a child or grandchild of, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used;

(3) Notwithstanding § 39-17-1322, the person using force is engaged in an unlawful activity or is using the dwelling, business, residence, or occupied vehicle to further an unlawful activity; or

(4) The person against whom force is used is a law enforcement officer, as defined in § 39-11-106, who enters or attempts to enter a dwelling, business, residence, or vehicle in the performance of the officer's official duties, and the officer identified the officer in accordance with any applicable law, or the person

using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.

SECTION 2. This act shall take effect July 1, 2008, the public welfare requiring it.